

### REMARKS

Applicants have studied the Office Action mailed January 13, 2004 and have made amendments to the claims. It is respectfully submitted that the application, as amended, is in condition for allowance. Reconsideration and allowance of the pending claims in view of the above amendments and the following remarks is respectfully requested.

**Rejection of claims 18-19, 21, 37-38, and 40 under 35 USC §112, 1st paragraph:**

The Examiner indicated that claims 18-19, 21, 37-38, and 40 stand rejected under 35 USC §112, 1<sup>st</sup> paragraph, because the specification does not enable any person skilled in the art to make and use the invention commensurate in scope with these claims. The Examiner also indicated that claims 18-19, 21, 37-38, and 40 stand rejected under 35 USC §112, 1<sup>st</sup> paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

To expedite prosecution, claims 18-19 and 37-38 have hereby been withdrawn by the present response, therefore making this rejection moot with respect to these claims.

With respect to claim 21 (and claim 40, dependent therefrom), Applicants have hereby amended claim 21 to include a functional limitation which clarifies that the claimed nucleic acid molecule encodes a polypeptide having estrogen receptor  $\beta$  function. Furthermore, claim 21 is also amended to clarify that the nucleotide sequence of the claimed nucleic acid molecule consists of a segment of SEQ ID NO:1 (wherein the segment comprises positions 89803-89988 of SEQ ID NO:1, and further wherein position 89837 of SEQ ID NO:1 is 'T' instead of 'C'), the sequence of which is set forth in the sequence listing.

Applicants respectfully request that the Examiner withdraw the rejection.

### Conclusions

Claim 21 has been amended by the present response, and claims 18-19 and 37-38 have been withdrawn. As such, claims 18-21, 26, 32, and 37-40 remain pending, and claims 20-21, 26, 32, and 39-40 are under examination. The Examiner indicated that claims 20, 26, 32, and 39 are allowable.

The amendments to Claim 21 add no new subject matter and their entry is respectfully requested.

In view of the above remarks and amendments, Applicants respectfully submit that the application and claims are in condition for allowance, and request that the Examiner reconsider and withdraw the objections and rejections. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is invited to call the undersigned agent at (240) 453-3812 should the Examiner believe a telephone interview would advance prosecution of the application.

Respectfully submitted,

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